ORIGINAL

STATE OF MICHIGAN

BEFORE THE MICHIGAN JUDICIAL TENURE COMMISSION

COMPLAINT AGAINST:

HON. GERARD TRUDEL
Judge, 24th District Court
6515 Roosevelt Road
Allen Park, MI 48101-2524

FORMAL COMPLAINT NO. 68

RECEIVED
JAN 0 8 2003
Judicial Tenure Commission

MASTER'S FINDINGS OF FACT

AND CONCLUSIONS OF LAW

Roman S. Gribbs (P14369)
Master

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STATEMENT OF RELEVANT PROCEEDINGS SUBMITTED BY JUDICIAL TENURE COMMISSION EXAMINER AND APPROVED IN PART AND SUPPLEMENTED BY MASTER

1. On July 18, 2002 the Michigan Judicial Tenure Commission ("Commission") filed Formal Complaint No. 68, requested the appointment of a master, and petitioned to unseal and consolidate Michigan Supreme Court ("Supreme Court") docket number 121769 (7), concerning the interim suspension of Judge Gerard Trudel ("Respondent"), which the Commission had previously petitioned for (and which the Court had granted).

2. On July 26, 2002, the Supreme Court ordered that file unsealed and appointed Hon. Roman S. Gribbs as Master in this matter.

3. On August 5, 2002, Respondent filed an Answer and Affirmative Defenses to the Formal Complaint by his counsel, Philip Thomas.

4. On September 13, 2002, Respondent filed an Amended Answer.

5. On September 23, 2002, Respondent filed a Corrected Copy of a Motion for Dismissal of Count II, Paragaphs 8 – 12, Paragraphs 24 and 25, and Count IV in its entirety.

6. On September 26, 2002, Respondent's counsel filed a motion to withdraw.

7. On September 27, 2002, Respondent filed his appearance *in propria persona.*

8. On September 27, 2002, the Examiner filed a Reply and Brief in Opposition to Respondent's Motion for dismissal of Count II, Paragraphs 8 – 12, Paragraphs 24 and 25, and Count IV in its entirety.

9. On October 1, 2002, the Master issued an Order granting Philip Thomas' motion to withdraw as counsel and denying Respondent's motion to adjourn "until after December 11, 2002."

10. At the second pre-hearing, on October 3, 2002, the Master heard oral arguments on Respondent's Motions to Dismiss by telephone, denied Respondent's motion for

dismissal of parts of Count II and Count IV in its entirety and and adjourned the hearing date from October 15, 2002 to October 21, 2002.

11. On October 17, 2002, Respondent filed a Notice of Hearing, Emergency Motion for Stay of Proceedings and Superintending Control and Brief in Support with the Michigan Supreme Court.

12. On October 21, 2002, the Commission filed its reply to Respondent's Motion for Superintending Control and Stay of Proceedings.

13. On October 22, 2002, the Master issued an order adjourning the hearing in Formal Complaint No. 68 from October 15, 2002 to October 21, 2002.

14. The hearing began on October 21, 2002 and continued through October 23, 2002, resumed October 28 – 29, and resumed October 31, 2002.

15. Respondent appeared for the hearing on October 21, 2002 and October 22, 2002 only. On October 23, 2002, his 24th District Court secretary called the Commission office and stated Respondent was "not available" and was going to the doctor. Respondent failed to contact the Examiner for the Commission, Commission staff or the Master. He also failed to respond to written requests and telephone calls for information concerning his status.

16. On October 23, 2002, the Supreme Court issued an order denying Respondent's motions for Stay of proceedings and Superintending Control.

17. The Master adjourned the hearings on October 23, 2002, due to the absence of Respondent who was reportedly "going to see a doctor".

18. The hearing was resumed as scheduled on October 28, 2002. The Master determined Respondent's absence was voluntary and continued hearing testimony on October 29, 2002 and October 31, 2002.

19. On October 31, 2002, the Examiner rested. The Master issued an Order closing the proofs, authorizing the Examiner to amend Formal Complaint No. 68 to conform to the proofs, and establishing a deadline of December 13, 2002, for submitting to the Master, and serving on each other, Proposed Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

I

Respondent's Application for Disability Benefits was Improperly Based On A Claim of Work-Related Mental Disability During A Period In Which He was Actually Serving an Unpaid Disciplinary Suspension Imposed by the Supreme Court.

On January 23, 2002, the Michigan Supreme Court issued an Order of Discipline in a prior matter against Respondent, which included a public censure and a 90-day suspension without pay, to begin on January 24, 2002 and end on April 23, 2002. Respondent admitted various acts of misconduct and consented to the imposition of that discipline as evidenced by his waiver and consent in that matter.

On April 23, 2002, the last day of his suspension without pay, Respondent submitted an application to the Bureau of Workers' Disability Compensation seeking mental disability benefits for the period beginning January 24, 2002 through at least April 23, 2002, the exact duration of his suspension.

Respondent described the "nature of the disability and the manner in which the injury or disablement occurred" on the form as follows: "[Respondent] developed a work-related mental disability in the course of his employment." He did not disclose on the application that the reason he had not worked from

January 24, 2002 through April 23, 2002 was that he was serving a disciplinary suspension for that period of time.

Respondent signed the application form that contained the following certification: "I hereby certify that the above information is true to the best of my knowledge. I also certify that I have, as of this date, mailed to my employer or its insurance carrier copies of any medical records relevant to this claim that are in my possession."

Respondent retained full health benefits during the period of his disciplinary suspension.

Respondent intentionally made the statements on the disability application form so as to receive mental disability benefits for the period he was on disciplinary suspension.

II

Respondent Absented Himself From Court for Lengthy Periods Of Time Based on Dubious Claims of Mental Inability To Work.

In each of the last three years, Respondent has taken an extended leave of absence claiming an inability to work due to alleged mental problems. Respondent was absent for three months in 2000, three months in 2001, and again for five weeks in 2002. Respondent's three-month absences from court in

the summers of 2000 and 2001, ostensibly due to undefined "medical reasons", were spent primarily in Southern California.

Respondent was absent from court from July 5, 200 until September 27, 2000, during which time he received full pay. For most of that period, Respondent was in Newport Beach, California. He drove to and from California and stayed in an apartment he rented before he left Michigan.

On July 26, 2000, Respondent submitted a letter to the State Court Administrative Office ("SCAO") from Dr. Raul J. Guerrero, Psychiatric Services of Grosse Pointe. Dr. Guerrero stated, "Please be advised that Mr. Gerard Trudell [sic] has been under my care since June 2, 2000. I have directed him to take an indefinite leave for medical reasons."

On August 12, 2000, Respondent's psychologist, Dr. Maureen Sinnott, wrote a letter to Jacqueline Theisz, Esq., in which she stated, "Mr. Gerard Trudel has been under my care since July 27, 200 *[sic]*. It is my professional opinion that he should not be involved in any court proceedings at this time due to his inability to concentrate, forgetfulness, and difficulty making decisions. If you have any further questions please feel free to contact me."

Notwithstanding Respondent's alleged inability to work, he was in constant contact with the court, and called the court administrator virtually on a

daily basis during his leave. Respondent also communicated with court staff and signed and transmitted orders via facsimile.

On October 16, 2002, four days prior to the initiation of these proceedings and two years after the fact, Respondent had the 24th District Court Administrator change 30 of the 63 medical/sick days (excluding weekends and holidays) he took in 2002, to vacation days. Region I State Court Administrator Delores Van Horn was unaware of anyone ever changing 30 medical leave days to vacation days.

On January 23, 2001, Dr. Sinnott sent a letter to Region I State Court Administrator Delores Van Horn in which she stated, "I have been seeing Mr. Gerard Trudel since July 27, 2000 for psychotherapy. He phoned me last night stating that you are requesting confirmation from me that he is able to function at his full capacity at work. Mr. Trudel does not have any depressive symptoms (including suicidal or homicidal ideation) at this time, which would prevent him from working at full capacity."

Respondent was again absent from court from June 27, 2001 through October 30, 2001, during which time he received full pay. For most of that period, he was in Newport Beach, California.

On June 25, 2001, Respondent's psychologist, Dr. Maureen Sinnott, sent a letter to Region I State Court Administrator Delores Van Horn in which she

stated, "As you know, I have been seeing Mr. Gerard Trudel since July 27, 2000 for psychotherapy. I recommend that he take an indefinite leave of absence at this time. Thank you for your understanding in this matter."

Also on June 25, 2001, notwithstanding Respondent's alleged inability to work, he met with Dr. Thomas Byrd for a consultation concerning the viability of cosmetic (Lasik) eye surgery. He advised Dr. Byrd he was departing for California. Respondent also arranged to rent an apartment to stay in while in California, and drove there and back.

After serving his 90-day suspension from January 24, 2002 through April 23, 2002, Respondent was scheduled to return to his judicial duties on April 24, 2002. On that day, without prior notice to the 24th District Court Chief Judge, court staff, or SCAO, Respondent advised the Chief Judge that he was going on a "medical disability" effective immediately because he could not perform his judicial duties due to the ongoing Judicial Tenure Commission investigation.

In a confirming memo to Respondent, Chief Judge Courtright asked Respondent to advise him "immediately" if his "medical condition changes in any way." Respondent never complied with the Chief Judge's directive.

On April 26, 2002, SCAO received a letter from Dr. Sinnott, dated April 16, 2001 [sic], that stated: "Since July 27, 2000 I have been seeing Mr. Gerard Trudel for psychotherapy. I met with him today and recommended that he take

an indefinite leave of absence at this time due to his depression. Thank you for your understanding in this matter."

On May 1, 2002, John Ferry, Jr., the State Court Administrator, wrote Respondent's psychologist requesting elaboration on the diagnosis of "depression" as applied to Respondent, and additional information regarding his condition, and an assessment as to a likely return date.

On May 9, 2002, John Ferry, Jr. wrote Respondent advising that his psychologist had not responded and that arrangements had been made for an independent medical examination unless he or his doctor advised he could "safely" return to work within the next week.

On May 14, 2002, Respondent wrote John Ferry, stating he and his psychologist decided no further elaboration would be forthcoming until after he met with Dr. Raul Guerrero, who might change his medication.

On May 14, 2002, Dr. Sinnott also wrote Mr. Ferry. She stated Respondent "continues to be severely depressed" and that the most serious "stressor" was the continued investigation by the Judicial Tenure Commission. She added she had "serious doubts that he would be able to function effectively as Judge while trying to defend himself against continued allegations" and concluded that it was her "professional opinion that premature return to his

judicial duties while being investigated by the Commission will interfere with his recovery."

In or about the middle of May, 2002, Respondent sporadically went to his office at the 24th District Court for reasons unrelated to his judicial duties. Respondent did not inform the Chief Judge of his presence or whether he had been declared fit to serve again.

As a result, on May 24, 2002, Ms. Van Horn wrote Respondent and advised him if he was unable to perform his judicial duties, including handling a regular docket, he should not be at the court, and if his health had improved to the extent that he was able to return to work, he should advise court staff immediately so that his schedule could be arranged. She also informed Respondent that he should advise the Region I SCAO office in writing immediately if he had recovered sufficiently to return to work. He did not comply with the SCAO request for written notification.

On May 23, 2002, Respondent wrote 24th District Court Chief Judge Courtright seeking assistance for his legal defense. Respondent admitted his failure to return to work was due to the "personal difficulty" of defending himself, and that the court's assistance might "help to resolve the situation which has resulted in my medical leave of absence."

On May 29, 2002, Respondent returned to work and began assuming his judicial duties without providing prior written or oral notice to Chief Judge Courtright or SCAO, and without providing notice from his psychologist or psychiatrist approving his return.

Respondent had been absent from court for 35 days in 2002, during which time he received full pay.

III

Respondent Harassed, Intimidated and Retaliated Against Former and Current Court Employees and City Council Members.

On April 5, 2001, Connie Trissell, a former 24th District Court employee and her husband, Robert Trissell, former 24th District Court employee Suzanne Molter, Timothy Straub, a current 24th District Court employee and his wife, Christina Straub, filed lawsuits against Respondent. On April 27, 2001, Giovanna Williams, a former 24th District Court employee and her husband David Williams, also filed a lawsuit against Respondent. All of the lawsuits were ultimately settled out of court.

On February 19, 2002, after an oral settlement in the various civil actions had been negotiated, but before they were signed, Respondent sent letters to each of the plaintiffs purporting to seek the retraction of all "false statements."

The plaintiff's attorney, Andrew Munro, testified Respondent's action in sending the letters nearly derailed the settlement, and he had to verify that Respondent's attorneys had no idea Respondent had taken such an action.

Respondent also sent Allen Park City Administrator Kevin Welch a letter asking him to retract false statements he allegedly made about Respondent on April 10, 2001, particularly in regard to allegations of "extortion." Mr. Welch found the letter upsetting. The letters purported to seek retraction of all "false statements," and in some instances, retraction of allegations of "extortion." Respondent sent a similar letter to the mayor of Allen Park, Levon King.

David B. Tamsen, Allen Park City Attorney, testified he and Kevin Welch were surprised he (Tamsen) did not receive a similar retraction letter. He also testified he advised the Allen Park Downtown business Authority and that Respondent had approached him because he wanted to purchase a building to open a nightclub.

On October 15, 2002, Respondent filed a lawsuit in Wayne County Circuit Court alleging, *inter alia,* Concert of Actions, Civil Conspiracy, Intentional Infliction of Emotional Distress, Negligent Infliction of Emotional Distress, Invasion of Privacy, Abuse of Process, False Light, and Defamation against 11 individuals: Maria Lilia Ortega, Levon G. King, Suzanne Molter,

Connie Trissell, Robert R. Trissell, Timothy Straub, Christine D. Straub, Giovanna Williams, David Williams, Cynthia Pruett, and Kevin Welch.

Nine of the individuals named as defendants in the civil case filed by Respondent (all except Maria Lilia Ortega and Cynthia Pruett) were named on the Examiner's witness list to testify against Respondent during the hearing before the Master on Formal Complaint 68. A copy of the Examiner's Witness List had been previously served on Respondent.

The formal hearing was originally scheduled to begin on October 15, 2002 (the same day Respondent filed his lawsuit), but was adjourned until October 21, 2002, by the Master, *sua sponte,* to accommodate Respondent's change of status to *in propria persona.*

IV

Respondent Frequently Engaged in Aggressive, Threatening, Retaliatory, and Unprofessional Conduct.

On May 15, 2001, during the deposition of a former 24th District Court employee who brought suit against Respondent, the plaintiff's attorney, Andrew J. Munro, was in discussion with Respondent's attorney, Michael Weaver. Respondent interrupted and Mr. Munro asked Mr. Weaver whether Respondent was still a judge. Respondent became agitated and aggressive, called Mr. Munro

"asshole," and asked him to step outside in the parking lot to "settle matters like men." When Mr. Munro told him "No," Respondent began to go after him. Respondent's counsel interceded, and held him back.

Respondent entered a secret transaction with the city of Melvindale, which funds 1/3 of the court's budget, to purchase a building to expand the court by prepaying a lease to the city of Melvindale, without adequately determining its suitability. He provided no notice to the city of Allen Park (which funds 2/3 of the court's budget), created hostility between the two funding units and between himself and the city of Allen Park, as well as numerous other problems. When Allen Park city councilman Kyle Tertzag asked him why he handled the matter the way he did, he replied, "You fucked me, so I fucked you." Respondent was referring to the fact that the Allen Park City Council demurred on paying for his legal representation during the earlier investigation by the Judicial Tenure Commission.

Respondent refused to submit necessary budget and other information relative to resolving the court's expansion and parking needs to the Allen Park city council, even after repeated requests, requiring the State Court Administrator's intervention on more than one occasion.

Some time in February or March 2001, Respondent was in the office of Allen Park City Councilman Michael Bowdell. Mr. Bowdell was making a point

with which Respondent disagreed. The conversation became heated. Mr. Bowdell stood up, in a non-aggressive manner, to try to make his point. Respondent told Mr. Bowdell to sit down. Mr. Bowdell refused. When Mr. Bowdell refused, Respondent pushed him with both hands, with sufficient force to back him up two or three feet against the windows of his office.

Respondent heard about certain resolutions drafted by Mayor Levon King that would have impacted him negatively that he mistakenly believed were going to be presented at the Allen Park City Council meeting on April 10, 2002. The rejected draft resolutions called for the investigation and removal of Respondent, the audit of the 24th District Court, and removal of Respondent as Chief Judge.

On April 10, 2001, Leo Lanctot, director of court services and former Allen Park police chief, conveyed to Kevin Welch, Allen Park City controller/administrator, by telephone, and to David Tamsen, city attorney, in person, an intent on the part of Respondent to retaliate by making public embarrassing or politically harmful information about Allen Park city attorney David Tamsen, and three city council members, Janene Rossman, Kyle Tertzag, and Michael Bowdell, if the city council passed the resolutions at its April 10, 2001 meeting.

Leo Lanctot also told Mr. Tamsen that Respondent told him "he has nothing to lose" and that he was going to take as many people with him as he could

if he was going down. Mr. Tamsen advised Leo Lanctot that his comments sounded a lot like extortion or blackmail. Within minutes after Mr. Lanctot left Mr. Tamsen's office, Respondent called Tamsen and referred to the resolutions.

Mr. Tamsen was offended by the fact that an authority figure like Respondent, who is supposed to fair and just, would try to use information, whether true or false, to gain what he wanted.

Allen Park City Councilman Michael Bowdell asked Respondent why, based on both their personal and professional relationship, he would make threats like that? Respondent replied, "My back was against the wall . . . what else could I do?"

Respondent created controversy and destroyed trust between the court and Allen Park City officials and city council as a result of his actions. The intended victims took the statements as threats.

On or about March 24, 2000, after an Allen Park city council meeting, councilman Kyle Tertzag entered Dunleavy's a local Allen Park bar, where Respondent was seated with several city officials. Mr. Tertzag greeted them and extended his hand to Respondent, who responded, "Fuck you."

In or about August 1999, Respondent convinced the Allen Park city council to listen to him in closed executive session until Councilwoman Rossman consulted the city attorney who stated the closed session was illegal. Respondent

demonstrated his displeasure with Ms. Rossman by ignoring her and refusing to speak to her. A mutual acquaintance later arranged for Ms. Rossman to meet the judge in his office. Ms. Rossman explained the reason she did what she did at the meeting. Respondent smiled and chuckled. He then replied, "Janine, don't you know I am a judge? Don't you know what I can do to you politically? You know, I have a lot of power. Don't you understand that?"

V

Respondent Engaged In A Pattern Of Sexually Related Inappropriate Conduct, Racially Insensitive Conduct, And Conduct That Created An Appearance Of Impropriety With Certain Female Court Employees.

Respondent spent inordinate amounts of time in the offices of certain female employees, including Staci Sukel (then Brooks), Michelle Albright (then Cousino), and Karen Powell.

Several employees saw Respondent and Karen Powell in unseemly proximity.

Respondent told Ms. Sukel that Michelle Cousino was attracted to her, implying it was a sexual attraction.

On at least two occasions, in 1994 and 1995, Respondent made unwanted physical advances to Ms. Sukel, including hugging and kissing.

On one occasion Ms. Sukel was leaving the building after working late. Respondent came up behind her, put his arms around her and tried to kiss her. He stopped when she started crying and told him "no."

On another later occasion, Ms. Sukel was preparing to leave shortly after the work day ended. Respondent called her to his office. When she arrived he put his arms around her and kissed her or tried to kiss her as she backed away from him. When she turned to leave she saw Michelle was also in his office. As she left she heard the two of them "snickering and laughing."

Jenita Moore, a 24th District Court employee from April 1994 until December 1998, was the court's only African-American employee. Around the time she was hired Respondent stated in a conversation, "Now I have my token black."

Sometime in 1995, referring to Ms. Moore, Respondent said to Timothy Straub, a court officer, that he (Respondent) would "like some of that sweet chocolate." Ms. Moore was offended when she heard about the remark.

In the Spring of 1996, female court employees rented a bus to attend a bachelorette party for fellow employee Dawn Grubbs. After Ms. Moore signed the list of people who were to attend, Respondent made a comment to her about having to sit at the back of the bus.

Ms. Moore also was offended by what she felt was Respondent's personal attack on her when he questioned her, in front of witnesses, about whether she had driven by his house, which she deemed a ploy because he was angry about something else.

VI

Respondent Displayed Marked Favoritism Toward Certain Employees While Harassing and Abusing Others.

Respondent favored certain employees with whom he would joke, go to lunch, make exceptions regarding misconduct, and socialize outside of court, including, but not limited to Michelle Albright, Karen Powell, and Beth Levack.

Respondent frequently played cards during court hours with certain favored employees, and would allow them to punch in at the end of a break and then continue to play cards while other employees had to strictly adhere to break times.

Respondent harassed and abused certain court employees including, but not limited to, Connie Trissell, Suzanne Molter, Timothy Straub, Giovanna ("Jodie") Williams, and Margaret Krizan. Examples of Respondent's continuing pattern of disparate, disrespectful and harassing treatment of certain employees include the following:

A. Respondent ignored and refused to speak to court employees Margaret Krizan, Connie Trissel, Suzanne Molter, Timothy Straub, and Jodie Williams for several months.

B. When Respondent returned to the court after returning from his vacation/sick leave in California in October 2000, he referred to court employees Connie Trissell, Suzanne Molter, Timothy Straub, Jodie Williams, and Margaret Krizan as "evil." Respondent spoke of wanting to eliminate the "evil at my court," that he would not have "evil" at his court, that he "had a plan" to get rid of the "evil," and that it would not set foot in his court again.

C. Respondent transferred court employees Connie Trissell, Suzanne Molter, Timothy Straub, Jodie Williams and Margaret Krizan, who resigned before the physical transfer, to the former carpet store building he had arranged for the city of Melvindale to acquire by prepaying its lease, before it was ready for use as a court services building.

D. Court employees were required to be physically present in the building without a certificate of occupancy. At the time the employees were forced to move into the building, there was no running

water, no working toilets, no phones, no desks, chairs, or computers, and it was filthy.

E. Probation officers Connie Trissell and Suzanne Molter, and court officer Timothy Straub were told by Leo Lanctot, hired by Respondent as director of the Court Services Building, that Respondent had ordered them to never set foot in the 24th District Court building again. Respondent's "rule" prevented them from performing their jobs properly.

F. Respondent also prohibited employees and others with whom he was angry from entering his courtroom on court business.

G. Respondent frequently stared or glared at employees, or gave "the look," which frightened and intimidated them. Probation Officer Connie Trissell, for example, described the look as a scary one that "sent a chill up her spine."

H. Respondent frequently threatened employees with the loss of their jobs.

I. Former 24th District Court probation officer Suzanne Molter testified Respondent would comment: "Don't you know who I am? . . . This is my court . . . Is there any question who is in charge? . . . and I am God . . ."

J. Deborah Green, former Allen Park city attorney who became 24th District Court Administrator, and is presently employed as the 33rd District Court Administrator, testified Respondent was very volatile, dictatorial, had favorites at the court, carried grudges and that most of the court staff was afraid of him. She also testified Respondent became upset with her and gave her the "silent treatment" after she terminated one of his favorites, Michelle Albright (formerly Cousino), for lying and trying to induce a subordinate staff member (Suzanne Molter) to lie about their whereabouts when Ms. Albright decided to remain in Las Vegas when she was supposed to attend a probation seminar with Ms. Molter.

K. After Ms. Green left the employ of the 24th District Court, Respondent rehired Michelle Albright. He then told employees that Suzanne Molter was "evil" and that those who aligned themselves with her would go down with her.

L. Respondent's moods were so unpredictable and volatile, court employees used code phrases to warn each other of the state he was in. He often browbeat employees until they agreed with whatever he said just to get away.

M. Many court employees were afraid of Respondent. Some employees were so frightened they had escape routes planned.

N. On one occasion in 2001 or 2002, Court Officer Timothy Straub was walking around the building, looking in each room to see if everything was all right. When he looked into one of the probation officer's rooms, Respondent was standing there and when he saw Mr. Straub, he slammed his hand against the window in the door, shattering it.

O. Respondent would also shoot rubber bands at Mr. Straub.

P. Sometime in 1995, Respondent went to Court Officer Timothy Straub and told him to move his car. When Mr. Straub asked why, since there were no reserved spaces for employees, Respondent said it was reserved for his secretary. Mr. Straub asked if they could discuss it. Respondent angrily told him to just move it or be suspended for three days, and when Mr. Straub again asked if they could talk about it, Responded said, "That's it, three days' suspension. Get out of here and get out of here now."

Q. In or about February, 1996, Respondent requested his former court recorder/secretary, Margaret Krizan, to transcribe a phone call from the irate parent of Cindy Rigsby, a former young female court

employee. Respondent asked Ms Krizan whether she listened to the phone call and angrily demanded she come into his office and shut the door. When she refused to come in with the door shut, because Respondent's demeanor frightened her, Respondent called for a court officer to escort her from the building.

VII

Respondent Misused Court Time, Personnel, Facilities, and Equipment.

Respondent used 24th District Court computer equipment and Internet services to access Internet sites for his personal benefit, which included adult-only pornographic sites. The Master reviewed a print-out of one of the sites, which is clearly pornographic.

Respondent frequently played cards during work hours with certain employees, police officers and on the computer, at times delaying court proceedings.

VIII

Respondent Failed To Cooperate With Requests By The Examiner And The Master For Information After He Suddenly Stopped Appearing At The Hearing.

Formal proceedings in this matter began on October 21, 2002. Respondent appeared and represented himself on October 21 and 22, 2002. On the third day of the hearing, October 23, 2002, Respondent failed to appear. His secretary, Michelle Albright, telephoned the Commission office and informed the staff that Respondent was "unavailable" for the day and that he was "going to the doctor."

Respondent telephoned Ms. Albright on October 22, 2002, in the evening, and told her he was "okay" and that he did not know what to do; *i.e.*, whether to retire or resign. He did not return phone calls from Dr. Sinnott, but called her the morning of October 23, 2002, and claimed he did not call her the evening before because he was contemplating suicide.

The Master contacted Ms. Albright on October 23, 2002, and instructed her to advise Respondent to telephone the Judicial Tenure Commission. She confirmed that she had given Respondent the message.

Respondent did not telephone the Judicial Tenure Commission on October 23, 24 or 25, notwithstanding the Master's directive.

Respondent also failed to return a phone call to the associate examiner or respond to a letter from her.

Respondent failed to appear or give any notice regarding his absence on the successive hearing dates—October 28, 29 or 31, 2002—and failed to respond to or contact the Master, Examiner or Associate Examiner in any way. Proofs were closed on October 31, 2002.

On October 30, 2002, Respondent had lunch in Allen Park at the Secret Recipes restaurant with 24th District Court employees Michelle Albright and Karen Powell.

On October 31, 2002, Respondent appeared at 9:07 a.m. as the *pro per* plaintiff in a lawsuit he filed against a medical doctor in the 24th District Court before Judge DeLaurentiis. During that hearing, in response to a comment by opposing counsel, Respondent noted, "I am not on a medical leave, that if that's what they (Judicial Tenure Commission) represented, it was incorrect. There is no hearing scheduled for this morning. I'm sure if he had called them that they would've told him that. But as Your Honor knows, there's no requirement meant [*sic*] for me to be there if I don't want to be there."

IX

Testimony By Three Expert Witnesses Establishes That Respondent Is Unfit To Be A Judge.

Dr. Maureen Sinnott

Respondent's own psychologist, Dr. Maureen Sinnott, testified essentially that Respondent is unable to function in a judicial capacity due to his inability to cope with the many severe "stressors" in his life.

Dr. Sinnott diagnosed Respondent as having major depression and said he is not paranoid because in her opinion paranoia means a person thinks people are against him or her or talking about him or her when they are not, but in Respondent's case people are talking about him.

Dr. Sinnott started to cry, demonstrating excessive, unprofessional emotionalism and a lack of objectivity. She admitted Respondent often did not pay her and that she would see him even if he did not pay her. Dr. Sinnott submitted a health insurance claim form for workers' compensation based on information provided by Respondent, including an alleged workers' compensation injury date of January 24, 2002 (the date Respondent's unpaid suspension began).

Dr. Robert Edward Erard

On June 28, 2001, Respondent met with Dr. Robert Edward Erard, a clinical and forensic psychologist. Dr. Erard was appointed by Judge William Lucas as a family counselor and to facilitate the improvement or reduction in the estrangement between Respondent and his daughter, and to decide the conditions and frequency of contacts between them.

Respondent had convinced Dr. Sinnott that his alleged depression was due in great part to lack of visitation with his daughter, yet he ignored Dr. Erard's "strong advice" not to go to California because it would undermine their goal of reducing the estrangement, and under the judgment of divorce Respondent would forfeit considerable summer parenting time. Dr. Erard also testified Respondent refused to cooperate with the court-ordered meetings to facilitate visitation with his daughter.

Dr. Erard described the "silent treatment" and threatening conduct engaged in by Respondent against his minor daughter that reflects a continuing pattern of such conduct that emerged through the testimony of numerous witnesses throughout the hearing.

Dr. Erard opined that Respondent has a "severe personality disorder with both narcissistic and paranoid features," that impairs the way one solves problems, copes with stress, and makes decisions. Such individuals are self-centered, highly

sensitive to perceived slights and tend to blame other people for anything that goes wrong in their lives. When they are not receiving sufficient praise or receive resistance from others, they are at greater risk than most people for becoming enraged or depressed. Respondent demonstrated these traits and others.

Dr. Erard disagreed with Dr. Sinnott's conclusion that Respondent should not be considered paranoid because his belief that people are out to get him was not imaginary. He explained that paranoids tend to make strong divisions between people they think are their friends and those whom they regard as enemies. They make a lot of enemies whom they treat in hostile fashion. Over time, they accumulate real enemies, but that does not mean they are not paranoid; but rather that the paranoia has become a self-fulfilling prophecy. Dr. Erard also clarified that someone does not need to be delusional to be paranoid. It is more of a disposition to mistrust, to suspect, and "in a sense to make enemies where it wasn't necessary to do that."

Dr. Erard has treated and evaluated judges and other people who are in positions of authority. He concluded that the "narcissistic and paranoid traits at the level that we see in Judge Trudel have a potential for interfering with the impartiality and objectivity that one would wish to see in a member on the bench."

On October 9, 2002, Respondent filed leave to appeal to the Michigan Supreme Court in *Maria Lilia Ortega v Gerard Trudel*, Lower Court No. 00-004880-DM, Court of Appeals No. 240862. The Court of Appeals denied his delayed application for leave to appeal for lack of merit. I hereby take judicial notice of the Order issued by the Michigan Supreme Court on November 20, 2002, denying Respondent's application for leave to appeal and denying his motion for parenting time. (See copy appended)

On December 5, 2001, Respondent filed a Notice of Intent to file thirteen civil claims of action against Psychological Institutes of Michigan P.C., Robert E. Erard, Ph.D., and Maria L. Ortega.

Dr. Harvey Ager

On June 25, 2002, Dr. Harvey Ager, a psychiatrist who has instructed judges and has a clear idea of what a judge should be and what duties are involved, examined Respondent at his office in Southfield, Michigan, at the request of the State Court Administrative Office.

Dr. Ager largely corroborated Dr. Erard's testimony. Dr. Ager described Respondent as "very uneasy, very tense, very defensive, very hyper-vigilant," a "very controlling, angry person who was extremely suspicious," and that he had an "aura" of intimidation that made Dr. Ager "feel uneasy," an unusual occurrence.

Dr. Ager diagnosed Respondent as having a "paranoid narcissistic personality disorder," whose perspective of the world is that "he is right and everyone else is wrong." Dr. Ager noted there are two sides to the paranoid—the grandiose or expansive side, and the persecutory side—and found Respondent has both qualities. He has inflated ideas about his own ego and inflated sense of self-esteem, but when things don't go his way he believes he is being victimized and other people are out to get him; there are conspiracies. Respondent's involvement in multiple litigations is also typical for paranoid individuals.

Dr. Ager also stated Dr. Sinnott's opinion (that Respondent was not paranoid because, in her opinion, a paranoid only thinks someone is whispering about him, but in Respondent's case people are really out to get him) was incorrect and demonstrated a lack of understanding concerning the paranoid individual. He also found that the fact Dr. Sinnott cried during her testimony suggested she had allowed her feelings to get wrapped up in the therapy, called counter-transfer, and that she had lost sight of what was really going on and therefore was not benefiting her patient.

Dr. Ager also explained Respondent's conduct results from his personality, and that his reactions to stress also result from his personality. Dr. Ager concluded Respondent should not be in a position of authority over others

because he lacks insight and due to his own needs and misperceptions, one could not trust his decision-making.

Dr. Ager felt Respondent could be dangerous if "at the point where he knows his back is against the wall and he has no options", but also believed the claim of feeling suicidal Respondent relayed to his therapist was due to being upset by the testimony he heard and that he was looking for some sympathy.

Based upon the totality of the evidence which includes the testimony of all witnesses and all the exhibits presented and admitted, I find the following charges contained in the First Amended Complaint filed in Formal Complaint No. 68 proven by a preponderance of the evidence:

Count I	Paragraphs 3 through 6;
Count II	Paragraphs 8 through 26;
Count III	Paragraphs 30 through 33;
Count IV-A	Paragraphs 38 through 43;
Count IV-B	Paragraph 45(c), Paragraphs 46(a), (b) and (c); Paragraphs 48(a), (b), (c), (d), and (e);
Count V	Paragraphs 50 (a), (b), (c), and (d).

CONCLUSIONS OF LAW

The standard for finding misconduct in judicial disciplinary proceedings is a preponderance of the evidence. *In re Ferrara*, 458 Mich 350, 360 (1998); *In re Jenkins*, 437 Mich 15, 18 (1991); *In re Loyd*, 424 Mich 514, 522 (1986) That standard was met in Formal Complaint No. 68 as the Examiner clearly proved the allegations by a preponderance of the evidence. The proofs also established additional misconduct on the part of Respondent. Therefore, this Master reaches the following legal conclusions:

1. Respondent engaged in a pattern of sexually related inappropriate conduct, racially insensitive conduct, and conduct that created an appearance of impropriety with certain female court employees.

2. As Chief Judge, Respondent engaged in nonsensical, injudicious, and unprofessional conduct by refusing to speak with Judge Russell and court employees for weeks and months at a time, and divided the 24th District Court staff into two camps by demonstrating obvious favoritism toward certain employees, while treating others harshly and disrespectfully

3. As Chief Judge, Respondent engaged in a pattern of high-handed, unreasonable and unprofessional conduct, created controversy, and otherwise breached his obligations as Chief Judge, by refusing to speak or

otherwise deal with various Allen Park city officials as well as the city council of Allen Park, the Allen Park city administrator/controller and the Allen Park city attorney on matters pertinent to the operation of the 24th District Court, for weeks and months at a time.

4. Respondent's volatility, mood swings, anger and intimidating tactics detrimentally affected the operation of the 24th District Court.

5. Respondent engaged in a continuous pattern of intimidation, threats and retaliation to achieve his goals, including, but not limited to,

(a) Arranging for the purchase of an inadequate building for the court's use, by the City of Melvindale, which funds 1/3 of the court's budget, by prepaying a lease with surplus court funds without any notice to the City of Allen Park, which funds 2/3 of the Court's budget, until the transaction was complete. This matter occurred after the City of Allen Park refused to pay for Respondent's legal fees in a prior investigation by the Judicial Tenure Commission;

(b) Warning an Allen Park city councilwoman, after she caused a legally questionable closed council meeting involving this Respondent to end, that she should be aware of what he could do to her, that he was powerful, and a judge;

(c) Making threats to disseminate harmful information about the Allen Park city attorney and three Allen park city council members if certain resolutions he heard about were adopted at its April 10, 2001 meeting;

(d) Sending letters demanding retraction of "false statements" to former and current court employees who had sued Respondent, after a settlement had been negotiated but before the documents were signed;

(e) Sending letters demanding retraction of "false statements" and accusations of "extortion" to the Mayor of Allen Park and the Allen Park City Administrator;

(f) Filing lawsuits against nine persons Respondent knew were to be called to testify against him in these proceedings one week before the hearing started in an effort to intimidate and prevent their candid testimony; and

(g) Threatening a court-appointed psychologist and family counselor with lawsuits.

6. Respondent's conduct bears similarity to that of Judge James McCauley Seitz. *In re Seitz*, 441 Mich 590 (1993). The Supreme Court, in determining Judge Seitz unfit for judicial office, observed:

> [T]he physical and emotional difficulties that petitioner experienced during a portion of the period in question, while they certainly merit sympathy and may serve in mitigation of the sanction, cannot be accepted as justification *per se* . . . *His conduct as a judge must be evaluated on the basis of objective criteria applicable to all judges similarly situated within the system.* (Emphasis added) *Id.* at 624, citing *Mardikian v Comm on Judicial Performance*, 40 Cal 3d 473, 485; 709 P2d 852 (1985).
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> * * *
>
> The specific instances of misconduct set forth are of varying degrees of seriousness resulting in varying degrees of harm to the operations and reputation of the Monroe County Probate Court and the administration of justice generally.
>
> However, in our considered judgment none of these instances of misconduct is an isolated event, nor to be sure the result of inattention, lack of knowledge, or incompetence, *but rather part of a mosaic of wilful, contentious, destructive, and sometimes malicious behavior. We are prompted to conclude that this is an occasion when the totality of the behavior is larger than the sum of its ingredients.* (Emphasis added) *Id.* at 625-626.

7. Respondent's conduct during these proceedings, by failing to respond to requests for information from the Master and the Examiner after his failure to appear on the third day of the hearing or any day thereafter, was inappropriate, unprofessional and demonstrated a lack of respect for the proceedings. His failure to appear is similar to Judge Ferrara's failure to

cooperate by giving testimony "so unnecessarily vague as to hinder the proceedings and significantly interfere with the administration of justice." *In re Ferrara*, 458 Mich 350, 371 (1998).

8. Respondent used the 24th District court computer equipment and Internet services to access Internet sites for his personal benefit which included adult-only pornographic sites. The Supreme Court has found appropriation of court services, facilities, equipment and other court materials to be judicial misconduct. *In re Cooley*, 454 Mich 1215 (1997). In *In re Furman*, Stipulation, Agreement and Order of Censure, No. 3245-F-84 (Washinton 2000), Judge Randolph Furman stipulated that he used court computer equipment, as well as a state provided computer and state provided Internet services, to access internet sites for his personal benefit, including adult-only sites, tendered his resignation to the Washington Commission on Judicial Conduct as part of the Agreement, and was censured for violating Canons 1, 2(A) and 3(B)(1) of the Code of Judicial Conduct.

9. Respondent's attempt to obtain workers compensation benefits while he was on a disciplinary suspension is clearly an attempt to misrepresent and borders on fraud. The reason he could not work between January 24, 2002 through April 23, 2002 had ***nothing*** to do with his mental health, whether work-related or not. The ***only*** reason Respondent could not work during that

period was because the Supreme Court had suspended him without pay—with his full and knowing consent—for disciplinary reasons. Seeking ***any*** type of compensation for that disciplinary suspension borders on fraud.

Moreover, Respondent did not need the medical benefits from workers compensation, as he was fully insured throughout the period of ***all*** his suspensions. Despite his contention that he needed extra money to pay his mental health care provider, she testified that she would have treated him for free, had done so in the past, and he knew that.

10. Respondent's erratic behavior, deceptive effort to obtain mental disability payments for the period he was on disciplinary suspension, and lengthy vacations disguised as medical leaves, adversely affected the function of the 24th District Court, the public's confidence in the judiciary, and harmed the integrity and independence of the judiciary.

With regard to Respondent's false statements of disability while on disciplinary suspension, see *Inquiry Concerning Judge Patrick Couwenberg*, No. 158, (California 2001), in which the California Commission on Judicial Performance issued a Decision and Order Removing Judge Couwenberg From Office. Judge Couwenberg was found guilty of misrepresenting his educational background on various questionnaires and applications when seeking judicial appointment, falsely representing to a judge he was a Vietnam veteran who had

received a Purple Heart, falsely represented to attorneys that he had gone to Vietnam, and that he had a master's degree in psychology and had received shrapnel in his groin in military combat.

With regard to Respondent's purported medical leaves, see *Inquiry Concerning Judge Patrick B. Murphy*, No. 157, (California 2001), in which the California Commission on Judicial Performance issued a Decision and Order Removing Judge Murphy From Office. Judge Murphy was found guilty of failing to give his judicial duties precedence over other activities, engaging in activities that interfered with the proper performance of his judicial duties, exhibiting lack of candor to his presiding judge, failing to cooperate in the administration of court business, and malingering in that he falsely claimed to be ill and/or medically disabled for the purpose of continuing to collect [his] salary without performing [his] judicial duties.

11. Respondent's conduct, as proven through testimony and documentary evidence, and summarized in the Findings of Fact, constitutes:

a. Misconduct in office as defined by Michigan Constitution 1963, Article VI, §30 as amended, MCR 9.205, as amended;

b. Conduct clearly prejudicial to the administration of justice as defined by the Michigan Constitution 1963, Article VI, §30 as amended, MCR 9.205, as amended;

c. Failure to observe high standards of conduct so the integrity and independence of the judiciary may be preserved, as required by the Code of Judicial Conduct, Canon 1;

d. Conduct involving impropriety and the appearance of impropriety, which erodes public confidence in the judiciary, contrary to the Code of Judicial Conduct, Canon 2A;

e. Failure to respect and observe the law and to conduct oneself at all times in a manner that promotes public confidence in the integrity of the judiciary, contrary to the Code of Judicial Conduct, Canon 2B;

f. Allowing social or other relationships to influence judicial conduct or judgment, in violation of the Code of Judicial Conduct, Canon 2C;

g. Failure to diligently discharge administrative responsibilities, in violation of the Code of Judicial Conduct, Canon 3B(1) and (2);

h. Engaging in conduct involving improper judicial influence and abuse of the prestige of office in violation of the Code of Judicial Conduct, Canon 3C;

i. Failure to properly carry out the duties of chief judge, in violation of MCR 8.110(C)(1), (2) and (3);

j. Engaging in a continuing pattern of harassing, threatening, and retaliatory conduct;

k. Engaging in deceptive conduct;

l. Exposing the legal system to ridicule and scorn; and

m. Conduct violating MCR 9.104 in that it is prejudicial to the administration of justice, contrary to MCR 9.104(1); exposes the legal profession or courts to obloquy, contempt, censure or reproach, contrary to MCR 9.104(2); is contrary to justice, ethics, honesty, or good morals, contrary to MCR. 9.104(3); and violates standards or rules of professional responsibility adopted by the Supreme Court. MCR 9.104(4).

Suggestions

Throughout the hearings, there were repeated hints of malingering. On the third scheduled day of the hearings, the Respondent failed to appear and directed his secretary to advise the Judicial Tenure Commission that Judge Trudell would not appear and he "was going to the doctor". I promptly adjourned the hearing to the next scheduled date, October 28, 2002. Respondent failed to appear and never explained his absence.

On October 31, 2002, as the hearing continued, Respondent again failed to appear; however, he did appear *in pro per* at a trial in 25th District Court, *Gerard Trudel v Thomas J. Byrd.* The trial lasted for four hours. A review of the transcript fails to disclose any mental stress, mental distress or mental disability. I recommend the Commissioners read the transcript.

For a more complete understanding of the events described above, I recommend the Judicial Tenure Commissioners read the testimony of Robert E. Erard, Ph.D., a clinical and forensic psychologist (39 pages) and the testimony of

Harvey G. Ager, M.D., an experienced forensic psychiatrist, board certified in many areas including the American Academy of Experts in Traumatic Stress (22 pages).

Respectfully submitted,

By _____
Roman S. Gribbs (P14369)
Master

Dated: January 6, 2003

Order

Michigan Supreme Court
Lansing, Michigan

Entered: November 20, 2002

Maura D. Corrigan,
Chief Justice

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Clifford W. Taylor
Robert P. Young, Jr.
Stephen J. Markman,
Justices

122516 & (45)(46)(47)

CLIENT COPY

MARIA LILIA ORTEGA,
Plaintiff-Appellee,

v

GERARD EDWARD TRUDEL,
Defendant-Appellant.

SC: 122516
COA: 240862
Wayne CC: 00-004880-DM

On order of the Court, the motion for immediate consideration, the application for leave to appeal, and the motion for parenting time are considered. Immediate consideration is GRANTED. The application is DENIED because we are not persuaded that the questions presented should now be reviewed by this Court. The motion for parenting time is DENIED. The motion to intervene is DENIED as moot.

02t

I, CORBIN R. DAVIS, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

November 20, 2002

Deputy Clerk